

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
RFD Communications, Inc.)	MB Docket No. 06-92
DBS Set-Aside Qualifications)	

To: Office of the Secretary
Attn: The Commission

OPPOSITION TO EMERGENCY MOTION

Farm Journal, Inc. ("Farm Journal"), by counsel, hereby opposes the Emergency Motion filed by RFD Communications, Inc. ("RFD-TV") on December 15, 2006 (and served on us today) for an indefinite stay of the Commission's Order and Declaratory Ruling in this proceeding. In its Order and Declaratory Ruling, the Commission properly and unanimously concluded that RFD-TV does not meet the criteria to be classified as a programmer qualified to be carried on any DBS channel capacity so reserved under the Commission's Part 25 rules so long as it broadcasts live, interactive livestock auctions from Superior Auctions. The Commission postponed its consideration of the other serious, non-qualifying conduct of RFD-TV detailed extensively in the proceeding by Farm Journal, Free Press, and many others.

In its meritless Emergency Motion, RFD-TV begs the Commission for a stay of the Order and Declaratory Ruling to prevent "millions of viewers" from losing access to RFD-TV. The Commission can and must ignore RFD-TV's dire and empty warning. RFD-TV alone can preserve its DBS carriage, pursuant to the Congressionally mandated terms for DBS set aside channels, by broadcasting qualifying non-commercial, educational programming in lieu of live, interactive, for-profit auctions.

The “price” that RFD-TV must pay for the set aside benefit is the same as that paid by other non-commercial programmers, scores of which remain on a “waiting list” until space becomes available on the DBS set aside channels. In fact, just one day after the Commission released its Order and Declaratory Ruling, RFD-TV and Superior Auctions moved their auctions to a 24/7 home shopping/infomercial channel on EchoStar’s DISH Network. Nothing in the Emergency Motion explains why RFD-TV could not and should not simply continue this practice going-forward.

RFD-TV obviously values the compensation it receives from airing the for-profit auctions more than its supposed corporate mission to provide non-commercial educational programming to the masses. Although the Emergency Motion neglects to mention this, RFD-TV resumed airing auctions last Wednesday (*i.e.*, before filing the Emergency Motion), Friday, and Saturday.¹ In any event, contrary to RFD-TV’s dire warnings, immediate relief is not warranted because RFD-TV apparently has no auction programming on its schedule for at least the next three weeks, when Superior Auction (according to its website) resumes its live “video auctions” on January 10, 2007.

Regardless, it is patently absurd for RFD-TV to claim that it needs an indefinite period of time before it comes into compliance with the Communications Act. RFD-TV acknowledged the commercial programming prohibition in its IRS application for Section 501(c)(3) status *over six years ago*, and RFD-TV first learned of Farm Journal’s concerns *more than 18 months ago*. RFD-TV has known about the FCC proceeding for more than a year. In the spring, it met with the Media Bureau staff and filed a written response to the Bureau’s Public Notice on this issue (after requesting and receiving an extension of time). Consequently, RFD-TV has enjoyed the lucrative fruits of airing live, interactive, for-profit auctions on valuable DBS channels set aside specifically by Congress for non-commercial, educational programming *for several years*.

¹ Farm Journal will provide DVDs to the Commission upon request.

Enough is enough. RFD-TV should broadcast qualifying non-commercial, educational programming on the set aside channels, or RFD-TV should step aside so that *bona fide* programmers may do so. The public interest requires nothing less than full, immediate compliance by RFD-TV. We respectfully request that the Media Bureau deny the Emergency Motion forthwith.

Respectfully submitted,

FARM JOURNAL, INC.

By: /s/ John R. Feore, Jr.

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